THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 22719 of 1994

Dated: 14.11.2007

Between:

APSRTC, rep., by its
Managing Director,
Mushirabad, Hyderabad.

... Petitioner

AND

State Transport Appellate Tribunal,
Andhra Pradesh, City Civil Court Buildings,
Hyderabad, rep., by its Presiding Officer
& others.

... Respondents

Counsel for the petitioner : Sri K. Srinivas Rao SC for APSRTC

Counsel for respondent No.4 : Sri Nousad Ali

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ORDER:-

This writ petition is filed for a writ of Certiorari to quash order dated 02.09.1994 passed by the State Transport Appellate Tribunal, respondent No.1, in R.P.No.179 of 1982.

Respondent No.3 was the existing operator on the interstate route, Kalahasti to Tiruthani via Renigunta, Puttur and Nagari. She filed an application before respondent No.2 to increase the singles from 2 to 6. By order dated 6/7.04.1982, respondent No.2 allowed the application. Feeling aggrieved by the said order, the petitioner filed R.P.No.179 of 1982 before respondent No.1. The said revision was allowed by respondent No.1 by its order dated 30.12.1982 on the ground that the route in question was allotted to the operators of State of Tamilnadu under interstate agreement vide G.O.Ms.No.1000, dated 03.06.1975 and that therefore respondent No.2 had no jurisdiction to allow the application of respondent No.3.

Respondent No.4 filed Writ Petition No.3505 of 1983 in this Court questioning the said order dated 30.12.1982 passed by respondent No.1 and this Court allowed the said writ petition by order dated 11.09.1987 on the ground that respondent No.4 being the transferee of the permit was not a party before respondent No.1. This Court while setting aside order dated 30.12.1982 passed by respondent No.1 directed it to hear the matter afresh and pass an order thereafter. Accordingly, respondent No.1 disposed of the revision on 02.09.1994 by dismissing the same.

Assailing the said order, the present writ petition is filed.

Sri K. Srinivas Rao, learned Standing Counsel for the petitioner submitted that the sole ground on which respondent No.1 dismissed the revision filed by the petitioner is that in the year 1993 the route was re-allotted to the operators of State of Andhra Pradesh and that respondent No.1 has failed to take into consideration the ground raised by the petitioner that the route in question over lapsed certain approved schemes.

Sri Nousad Ali, learned counsel representing respondent No.4 submitted that earlier respondent No.1 allowed the revision filed by the petitioner on the sole ground that the route in question was allotted to the operators of Tamilnadu and after remand respondent No.1 affirmed order dated 6/7.04.1982 passed by respondent No.2 on the ground that the route has been re-allotted to the Andhra Pradesh operators. He submitted that the contention of the learned counsel for the petitioner that the route in question over lapped the approved scheme has neither been specifically raised before respondent No.1 nor argued on behalf of the petitioner and that therefore that issue cannot be allowed to be raised by the petitioner for the first time in this writ petition.

I have carefully considered the submissions of the learned counsel for the parties.

A perusal of order dated 6/7.04.1982 shows that the contention raised on behalf of the petitioner that a draft scheme published by them was under proposed stage was referred to and the said objection was rejected. It is not in dispute that the only ground on which respondent No.1 had allowed the revision filed by the petitioner earlier was that the route was allotted to Tamilnadu operators. It is also not in dispute that in the year 1993, the same was re-allotted to the Andhra Pradesh operators. Therefore the said ground was no longer available for the petitioner before respondent No.1 at the time of disposal of the revision after its

remand.

With reference to the contention of the learned counsel for the petitioner that the subject route over lapped the approved route, I have carefully examined the pleadings. Though this contention is raised for the first time in the affidavit, in para 16 of the counter-affidavit filed by respondent No.4 it is averred that the petitioner has not mentioned the schemes, which are purportedly overlapped by the route in question before respondent No.1, no material was placed and no arguments were advanced on this aspect by the petitioner. Even in the affidavit filed in support of the writ petition, no plea is raised that the contention regarding overlapping was specifically argued and respondent No.1 failed to give any finding in this regard. Since the scope of the writ petition is confined only to examination of the order under challenge, in order to find out whether it suffers from any material illegality, the petitioner cannot be allowed to raise a ground for the first time, which was not specifically argued before respondent No.1. I do not therefore find any illegality in the order passed by respondent No.1 in dismissing the revision filed by the petitioner.

For the aforementioned reasons, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP.No.28309 of 1994 filed by the petitioner for interim relief is also dismissed.

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C.V. NAGARJUNA REDDY, J

Date: 14.11.2007
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